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# Supreme Court of the United States

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October Term, 1954

No. 23

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ROBERT A. McALLISTER,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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## ADDENDUM PURSUANT TO PERMISSION OF THE COURT

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JACOB RASSNER,  
*Attorney for Petitioner.*

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At the close of argument this Honorable Court granted permission to file an addendum designating the folios where certain evidence appears.

As to Finding of Fact "9" at page 432, proof is to be found in the amended answer at folio 51, and the master's testimony at folios 1204, 1209 and 1210.

The following fact was agreed upon by counsel:

"On November 24, 1945, while the vessel was at sea, en route from Shanghai to Tsingtao the libelant for the first time felt dizzy, which condition continued for four days. He continued to perform his duties through the first watch on November 26th and thereafter rested in his bunk where he was visited from time to time by the Pharmacist's Mate. After arrival at Tsingtao the libellant was examined by a United States Marine Corps Hospital at Tsingtao for diagnosis" (fols. 162, 163).

McAllister's answer to interrogatory No. 6 was as follows:

"Plaintiff took sick several days after the Chinese troops and civilians came aboard the vessel, which date of illness to the best of plaintiff's recollection was November 24, 1945" (fol. 524).

That he first felt dizzy on November 24, 1945 (fol. 526).

The Court in examining McAllister brought out, that Chinese shoreside labor came aboard the S. S. EDWARD B. HAINES, when the ship first entered Shanghai (fols. 581, 582, 583, 584) between September 26, 1945 and November 1, 1945.

"The Court: What was the name of the ship you were on?

The Witness: The Edward B. Haines, your Honor.

The Court: And you were approaching the China coast, were you?

The Witness: That is right, sir. We eventually went to the China coast.

The Court: Now, what cargo were you carrying?

The Witness: To the best of my recollection, your Honor, I believe it was trucks and supplies, flour, and materials of that sort, but it wasn't really within my province to really notice that.

The Court: No, but when you reached Hong Kong, or Shanghai, that cargo was taken off your boat, wasn't it?

The Witness: That is right, your Honor, yes.

The Court: Now, who did it?

The Witness: Well, I think part of it was done—the deck department hired some of the shoreside labor there, and they hired them to chip the decks, for them, also.

The Court: Were they coolies? Coolies, were they?

The Witness: Yes, your Honor.

The Court: Chinese?

The Witness: That is right, sir.

The Court: From the port?

The Witness: That is right.

The Court: They came on—

The Witness: That is right, your Honor.

The Court: Did they eat there?

The Witness: Your Honor, I could not say whether they ate aboard the vessel or not.

The Court: You don't know?

The Witness: No, sir.

The Court: But they did use the latrine?

The Witness: Yes, your Honor, they did.

The Court: All right" (fols. 581 to 584).

William B. McLeod testified that shore personnel boarded the vessel before the vessel went to Hong Kong (fols. 593, 600). That would be the first time the vessel was at Shanghai (between September 26, 1945 and November 11, 1945) (fol. 170). He describes the unsanitary conditions aboard the vessel at folios 601 to 604 inclusive.

These were the same conditions as prevailed on November 11, the second stop at Shanghai (fols. 601, 602, 603, 604).

Dr. Frant said the first symptom of polio occurred November 15th (fol. 342).

Medical and hospital facilities were available at all times (fols. 931, 932).

Respondent's doctor conceded that poliomyelitis symptoms were not present prior to November 11th (fol. 1011), which is substantially corroborated by Dr. Ward (fols. 1070 and 1087).

It was conceded that the role played by flies in their transmission of polio has not been determined (fol. 1100).

To the same effect the publication by the National Foundation for Infantile Paralysis, Inc., Franklin D. Roosevelt, Founder, publication No. 34, page 6 (fols. 1112 and 1113).

Also respondent's Dr. Ward's testimony at folios 1116 through 1119 inclusive, and Dr. Stimson's testimony at folio 647.

Respectfully submitted,

JACOB RASSNER,  
*Attorney for Petitioner.*